



COLORADO

Department of Public Health & Environment

WATER QUALITY CONTROL DIVISION

NOTICE OF VIOLATION / ORDER FOR CIVIL PENALTY

NUMBER: IP-151201-1

IN THE MATTER OF: LEADVILLE CORPORATION
CDPS PERMIT NO. CO-0027014
LAKE COUNTY, COLORADO

Pursuant to the authority vested in the Colorado Department of Public Health and Environment's (the "Department") Division of Administration by §§25-1-109 and 25-8-302, C.R.S., which authority is implemented through the Department's Water Quality Control Division (the "Division"), and pursuant to §§25-8-602, C.R.S., the Division hereby makes the following Findings of Fact and issues the following Notice of Violation:

GENERAL FINDINGS OF FACT

1. On May 29, 2014, the Division issued Leadville Corporation a Notice of Violation/Cease and Desist Order, Number: IO-140529-1 (the "NOV/CDO") which included findings that Leadville Corporation violated the Colorado Discharge Permit System Permit, Number CO0027014, for violations associated with the Sherman Tunnel Mine. A copy of the NOV/CDO is attached hereto as Exhibit A and is incorporated herein by reference.
2. Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11, Leadville Corporation was required to submit an answer to each alleged violation contained in the NOV/CDO and was allowed thirty (30) calendar days to file a request for a public hearing to determine the validity of the NOV/CDO. As further outlined in the NOV/CDO, absent a request for a hearing, the validity of the factual allegations and the NOV/CDO shall be deemed established in any subsequent Department proceeding.
3. Leadville Corporation did not file a request for a hearing nor submit the required answer to the NOV/CDO to the Division. Additionally, Leadville Corporation failed to comply with the required corrective actions of the NOV/CDO, which were specifically outlined in paragraphs 29-38 of the NOV/CDO.
4. Leadville Corporation's forfeiture of a hearing request constitutes a waiver of its right to a hearing, including a waiver of its right to contest the findings and conclusions set forth in the NOV/CDO. Since Leadville Corporation has so waived its right to contest those findings and conclusions, the Executive Director, through his designee (hereinafter the "Executive Director") hereby accepts those findings and conclusions as true and issues the following Order for Civil Penalty in accordance with §25-8-608, C.R.S. and 5 CCR 1002-21, §21.12.



ORDER FOR CIVIL PENALTY

5. Pursuant to §25-8-608(1), C.R.S., any person who violates the Colorado Water Quality Control Act ("Act"), or any permit issued under the Act, or any final cease-and-desist order, shall be subject to a civil penalty of not more than ten thousand dollars per day for each day during which such violation occurs.
6. Based upon the facts described in the NOV/CDO, as well as those additional facts described herein, the Executive Director has determined that a civil penalty is appropriate and warranted in this matter. Therefore, the Executive Director hereby imposes a civil penalty in the amount of One Hundred Two Thousand Six Hundred Seventy Eight Dollars (\$102,678.00) against Leadville Corporation. The civil penalty was determined in accordance with the procedures outlined in the Division's Civil Penalty Policy (May 1, 1993). A copy of the civil penalty calculation is attached hereto as Exhibit B and is incorporated herein by reference. The civil penalty shall be paid within thirty (30) calendar days of the date of this Order for Civil Penalty. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

Andrea Beebout
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

OBLIGATION TO ANSWER AND REQUEST FOR HEARING

Pursuant to §25-8-603, C.R.S. and 5 CCR 1002, §21.11, you are required to submit to the Division an answer affirming or denying each paragraph of the Findings of Fact and responding to the Notice of Violation. The answer shall be filed no later than thirty (30) calendar days after receipt of this action.

Section 25-8-603, C.R.S. and 5 CCR 1002, §21.11 also provide that the recipient of a Notice of Violation may request the Division to conduct a public hearing to determine the validity of the Notice, including the Findings of Fact. Such request shall be filed in writing with the Division and include the information specified in 5 CCR 1002, §21.4(B)(2). Absent a request for hearing, the validity of the factual allegations and the Notice of Violation shall be deemed established in any subsequent Department proceeding. The request for hearing, if any, shall be filed no later than thirty (30) calendar days after issuance of this action. The filing of an answer does not constitute a request for hearing.

The required answer and any request for a hearing shall be submitted to the Division at the following address:

Andrea Beebout
Colorado Department of Public Health and Environment
Water Quality Control Division
Mail Code: WQCD-CWE-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Email: andrea.beebout@state.co.us



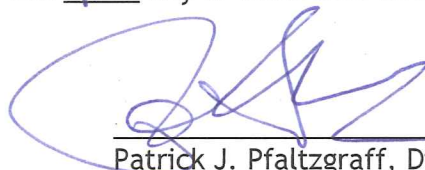
APPEAL OF CIVIL PENALTY

Pursuant to 5 CCR 1002, §21.12(B) and 5 CCR 1002, §21.4(A)(3)(b), an appeal of the determination of the civil penalty by the Executive Director shall be made in writing to the Division. Requests for such an appeal should be made in accordance with 5 CCR 1002, §21.12(B), shall be filed no later than thirty (30) calendar days after issuance of this action, and shall include the information specified in 5 CCR 1002, §21.4(B)(2).

POTENTIAL CRIMINAL PENALTIES

You are also advised that any person who recklessly, knowingly, intentionally, or with criminal negligence discharges any pollutant into any state waters commits criminal pollution if such discharge is made without a permit, if a permit is required by the Act for such discharge, or if such discharge is made in violation of any permit issued under the Act or in violation of any Cease and Desist Order or Clean-up Order issued by the Division. By virtue of issuing this Notice of Violation / Order for Civil Penalty, the State has not waived its right to bring an action for penalties under §25-8-609, C.R.S., and may bring such action in the future.

Issued at Denver, Colorado, this 15 day of December 2015



Patrick J. Pfaltzgraff, Director
Water Quality Control Division
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

